

Harrington Park
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
Wednesday, October 28, 2020 @ 7:00PM

Chairman McLaughlin called the meeting to order at 7:01PM

Open Public Meeting Act Announcement: In compliance with Chapter 231, Public Law 1975, adequate notice of this meeting was made. It has been posted on the Bulletin Board in the Municipal Center. Copies have been mailed to THE RECORD, NORTHERN VALLEY PRESS, and the NORTH JERSEY SUBURBANITE. A copy has been filed with the Borough Clerk and copies have been mailed to individuals requesting the same.

Based on the executive orders from the state, this meeting will be conducted via Zoom. The meeting details were published in the Record.

ROLL CALL

Roll Call	PRESENT	ABSENT
(RM) Chairman Richard McLAUGHLIN	X	
(MR) Vice Chair Michael ROTH	X	
(JP) John POWERS	X	
(RB) Robert BUDINICH	X	
(JC) Jin CHO		X
(SL) Steve LOTT	X	
(SM) Stephen MARTINEZ	X	
(GZ) Gail ZACCARO (alternate a)	X	
(RF) Robert FRANK (alternate b)	X	

Also present: (JS) John Schettino, Board Attorney
(CL) Carolyn Lee, Land Use Secretary

MINUTES FOR APPROVAL

September 23, 2020 minutes

Vote to approve	Motion	Second	Yes	No	Abstain	Absent
Chairman Richard McLAUGHLIN			X			
Vice Chair Michael ROTH					X	
John POWERS			X			
Robert BUDINICH	X		X			
Jin CHO						X

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Steve LOTT		X	X			
Stephen MARTINEZ						
Gail ZACCARO (alternate a)			X			
Robert FRANK (alternate b)			X			

INVOICES FOR APPROVAL

Law Office of John L. Schettino	55 William St. - resolution 10/1/2020	\$ 250.00
Law Office of John L. Schettino	42 Maryann Ln - Resolution 10/1/2020	\$ 250.00
Law Office of John L. Schettino	Meeting Attendance - 9/23/2020	\$ 150.00

TOTAL \$ 650.00

Vote to approve	Motion	Second	Yes	No	Abstain	Absent
Chairman Richard McLAUGHLIN			X			
Vice Chair Michael ROTH			X			
John POWERS			X			
Robert BUDINICH	X		X			
Jin CHO						X
Steve LOTT			X			
Stephen MARTINEZ						
Gail ZACCARO (alternate a)		X	X			
Robert FRANK (alternate b)			X			

HEARINGS

1. 102 Highland Avenue - 6ft Fence (Giuseppe Mellampe)

Mr. Mellampe provided an update. He is in the process of plans to relocate the driveway onto Highland and has enlisted an architect. Mr. Mellampe waived the 120 day time and decision rule. This is the announcement that the application for 102 Highland will be carried to the November 18, 2020 meeting with no additional notice.

Vote to approve the application to be carried to the November 18, 2020 meeting.	Motion	Second	Yes	No	Abstain	Absent
Chairman Richard McLAUGHLIN			X			
Vice Chair Michael ROTH			X			

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John POWERS			X			
Robert BUDINICH		X	X			
Jin CHO						X
Steve LOTT			X			
Stephen MARTINEZ						
Gail ZACCARO (alternate a)	X		X			
Robert FRANK (alternate b)			X			

2. 22 Elliot Road - Side yard setback for above ground pool (Maria Curry)

Ms. Curry was sworn in. She is requesting a side yard variance for an above ground 12ft circular swimming pool. There is 20ft from the house to the side yard property line. The proposed pool would be 8ft from the property line. The existing fence between the houses is about 4-5ft high. The side yard is next to the neighbor's side yard. The neighbor's front yard is also Elliot Road. The neighbor's house is about the same distance from the property line as her house, about 20ft. The property is 67ft x 145ft. She said that it is better to have the pool on the side yard and not take away from the back yard. There is no deck proposed for the pool.

RB noted that there seems to be space in the back yard and asked if she would consider having the pool in the backyard. She would not consider it.

MR noted that the house is a 2 family dwelling and having the pool on one side could deter the other tenants from using the pool.

Ms. Curry said that she lives at 15 Cooper Place, but owns the property at 22 Elliot Road. Her daughter lives on the first floor. Ms. Curry said that she is 82 years old and her daughter is legally blind. She can drive her daughter to the town pool, but would like the pool for her when she is not around.

SL asked if permits are needed for above ground pools. JS said permits are required.

The meeting was opened to the public. There were no questions or comments. The meeting was closed to the public.

RM asked Ms. Curry to mark the area of the proposed pool on the property. The board members will go individually before the next meeting to look at the location and the neighborhood. Ms. Curry agreed.

3. 224 Florence - impervious coverage and two side yard variances for an inground pool (Miki & Michael Jensen)

Miki, Michael Jensen and Kent Riggs were sworn in. Mrs. and Mr. Jensen are requesting a variance for an inground swimming pool with a side yard variance of 8ft, a side yard variance of 5ft and a 1.3% variance for impervious coverage. The pool is 14ft x 31ft. The property is 100ft x 120ft. Henry Place is a paper street and belongs to their neighbor. Currently, there is no

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fencing, but a fence will go around the property. There is one tree that will be removed. The side yard is about 60ft to the side of the neighbor's house. The neighbor's side is wooded. Mr. Beubis, the neighbor, said that the property he purchased from the town cannot be built on, but is permitted to use. Currently, there is a greenhouse and a vegetable garden on the side yard. MR asked if there would be a chance if the neighbor's property could be subdivided in the future and a house built on the 50ftx100ft property. There was discussion that there is a utility easement and the property would not be subdivided.

The meeting was opened to the public.

Rob Jaeger, 23 George Street, was sworn in. Mr. Jaeger lives behind 224 Florence. He said that there is a gas line underneath and is not permitted to build a permanent structure on the Henry Place property. JS said that it is a utility easement and there would be deed restrictions.

Mr. Beubis, 234 Florence St., noted that he could not build on it, but he could clear out the trees and put an area for tables and chairs. He said that the Jensens were granted variances for the property previously. He thought that variances are granted for hardship. Impervious coverage over the maximum percentage is because of the pool. Mr. Beubis noted that he pays taxes on Henry Place.

Mr. Kent Riggs was sworn in. He is a licenced surveyor and engineer in Englewood and has testified in NJ as an expert witness. The board accepted Mr. Riggs as an expert.

CL shared the survey and site plan on the screen with the participants. Mr. Riggs explained that the side yard setback is 47ft. The pool is 188sf. The proposed fence is 4ft high around the perimeter of the yard. * recording started * The ordinance is 15ft from the side yard property line to the water's edge and the patio is required to be 10ft from the side yard property line. There was discussion regarding pool setbacks and structure setbacks. Mr. Riggs stated that from the rear yard it is conforming. The resulting lot coverage is 46.3% where 45% is permitted which is 155sf over the permitted amount. One of the reasons to put it along the side yard is that the house adjoining the rear yard is closer than the adjoining house to the right side. The vacated street, Henry Place, has deed restriction from October 26, 2006 for Henry Place indicates that it may not be developed in any fashion said for incidental use as a driveway and used for open space. Mr. Riggs read a portion of the deed. The house will not be closer than 50 ft from the pool. It is significantly further than the house behind it. Henry Place is wooded and has a buffer greater than most houses would have and would be less likely affected by the use. Other than 155sf of excess lot coverage on a 12,000sf lot. The site is being utilized in a manner consistent with the R-1 District and that the plan represents an upgrade and improvement, which benefits the surrounding neighborhood. Mr. Riggs does not see a negative. It would be an appropriate place to put a pool on the property.

The board had no additional questions for Mr. Riggs.
RM asked if the public had questions for Mr. Riggs.

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Mr. Beubis agreed with what Mr. Riggs stated regarding what the town stipulated when they purchased the lot. It was referred to a wooded lot, but noted that he could make it not a wooded lot. He could plant grass and place chairs and would be within his rights to do that. He is not permitted to build on it. It is part of his yard and the pool along the property line would affect him.

Mr. Jaeger asked if this would be the only location for the pool pump because it is closer to his property and wondered if it could be relocated. He lives in the adjoining rear yard. Mr. Riggs said that it could be relocated, but is within the required setbacks. The area would be enclosed by a fence so you would not see it because it is usually no more than 2ft high. RM asked if there could be sound mitigation to reduce the noise. Mr. Riggs said that he cannot testify on the sound level of the pool equipment, but the newer equipment is not as noisy as pool equipment that has been in service for 10 or 15 years. He assumes they can check with the pool supplier and ask if there is a sound barrier that might be supplementing the pool equipment.

GZ asked if the equipment could go in a different area such as a shed. Mr. Riggs said that they can put a new shed in the back and put it inside the shed. It can be put into an enclosure. Mr. Riggs was not sure if there could be a shed in the rear yard. He did not know a conforming place where they could put a shed. It might require a variance. Mrs. Jensen suggested moving it forward closer to the front. SL suggested moving it closer to the front yard 5ft fence, closer to their house. Mr. Beubis said that it would bring it closer to his house. Mrs. Jensen and Mr. Beubis discussed the issue of moving the pool equipment.

RB asked about the storm drain/drain chambers and if there is a water problem on that side of the property. Mr. Riggs said that the purpose is to offset any increase in impervious area. It is something an engineer would require in any application. This was sized to make sure that any increase in runoff is picked up by this system. Mr. Beubis said that they get a lot of water on that property when there is heavy rain.

Mrs. Jensen said that they can appreciate Mr. Beubis' concerns. They plan to live there for a long time. Their kids are still little and with the town pool finances and COVID, she would like to do this now while their kids are young. Their kids are on the swim team. They required 2 variances when they were doing renovations on the house. One was for the rear yard and this was required because it was a pre-existing non-conformity.

Mr. Beubis said that he can appreciate that their kids are little and enjoy the pool. Mr. Beubis has lived in this house for about 30 years and in the town for 36 years and doesn't plan on going anywhere anytime soon. He looks at himself as a senior citizen enjoying peace and quiet.

Mrs. Jensen and Mr. Beubis discussed noise levels between patios. Mr. Jensen said that the wood fence will help mitigate the problem which is better than what they have now.

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The meeting was closed to the public.

SL asked if there are any safety problems with no fence between the house and the pool especially where there are children? Mr. Riggs said that during the winter, they are usually covered. It's not common to fence the pool from the rear door to the pool. Sometimes there is a fence only around the pool and not the yard. He did not feel that it was an uncommon arrangement. Mrs. Jensen said that all their kids swim. 2 are on the swim team. If they felt it was a major concern, they would've put a fence around the pool. JS noted that the applicant would have to comply with the building code requirements regarding the fence type and location. Mr. Beubuis asked if it is normal to have 5 variances for one property. JS said that there is no restriction to the number of variances you can apply for. It is the board's decision whether the application requires too many variances. Typically, it is the extent of the variance and not the number of variances. There could be 5 variances for 1ft or one variance for 30ft. Based on the testimony, the variances from the addition, does not look like it impacts the variances being sought for the pool. The board will consider the testimony that Mr. Beubis provided along with the applicant and the engineer to decide if the variances are significant enough to warrant a denial or appropriate enough in light of all the circumstances.

RM asked Mr. Riggs based on the zoning official's denial letter that the three variances are for 1.3% lot coverage, 7ft side yard variance to waters edge, and a 5ft side yard variance to edge of the patio. Mr. Riggs agreed. Mr. Riggs added that if noise is the concern, he wasn't sure if moving from 60 to 67 ft will make a profound difference in the level of noise to the adjoining property. The solid fence would mitigate the noise better than a chain link fence that is open. Mr. Beubis didn't see the hardship aspect which he thought the variance is supposed to represent. Mr. Riggs said that this is more of a C2 variance and doesn't see a significant detriment here. A pool is no longer considered a luxury anymore and is considered a standard accessory to family homes. It is consistent with the R-1 district. When a property upgrades and improves, it benefits the surrounding neighborhood.

RM concluded testimony for tonight. He asked Mr. and Mrs. Jensen to line out where the pool is proposed to be. The hearing will continue on the November 18th meeting. Between now and then, members of the board will go and look at the proposed pool location with respect to the neighboring properties.

RESOLUTIONS

1. 42 Maryann Lane - 4ft Fence in front yard setback (Giuseppe and Josephine Deserio)

RB asked if the resolution was corrected with his vote. JS and CL confirmed that the vote was corrected in the updated resolution.

RM verified with JS that the vote is for the form of the resolution.

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Vote to approve the resolution for 42 Maryann Lane	Motion	Second	Yes	No	Abstain	Absent
Chairman Richard McLAUGHLIN			X			
Vice Chair Michael ROTH					X	
John POWERS			X			
Robert BUDINICH	X		X			
Jin CHO						X
Steve LOTT			X			
Stephen MARTINEZ						
Gail ZACCARO (alternate a)		X	X			
Robert FRANK (alternate b)			X			

2. 55 William Street - Side yard variance - generator (Stephen & Tract Martinez)

Vote to approve the resolution for 55 William Street	Motion	Second	Yes	No	Abstain	Absent
Chairman Richard McLAUGHLIN			X			
Vice Chair Michael ROTH					X	
John POWERS			X			
Robert BUDINICH	X		X			
Jin CHO						X
Steve LOTT			X			
Stephen MARTINEZ						
Gail ZACCARO (alternate a)		X	X			
Robert FRANK (alternate b)			X			

MEETING OPEN TO THE PUBLIC

RM opened the meeting to the public. There were no comments or questions from the public. The meeting was closed to the public.

OLD BUSINESS

1. 6ft fence discussion - Planning Board comments

RM summarized the comments from the Planning Board on whether the Council should consider amending the fence ordinance and referred to the Borough Planner. CL provided the planner

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with prior variance applications and is being reviewed and being considered at this time. RM has not heard anything further. The board should consider applications as they come.

NEW BUSINESS

There was no new business.

ADJOURN

Motion: JP

Second: GZ

In favor, all said “aye”. None opposed.

Meeting adjourned at 8:04PM.

NEXT SCHEDULED ZONING BOARD OF ADJUSTMENT
REGULAR MEETING

***Rescheduled due to Holiday - Wednesday, November 18, 2020 at 7pm**